CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

FINAL CLEANUP AND ABATEMENT ORDER NO. R9-2010-0026

AN ORDER DIRECTING MR. GENE KULLMANN, MR. STEVE EIDE, MR. GHAZWAN KALASHO, INTERRA VISION (SANTEE), AND RESTRUCTURE PETROLEUM MARKETING SERVICES OF CA, INC. TO CLEANUP AND ABATE THE EFFECTS OF POLLUTION, AND SUBMIT TECHNICAL REPORTS PERTAINING TO CORRECTIVE ACTIONS AT THE SITE OF

THE FORMER EZ SERVE GAS STATION,
9305 MISSION GORGE ROAD,
SANTEE, CALIFORNIA

The California Regional Water Quality Control Board, San Diego Region (herein after Regional Board) finds:

1. **Legal and Regulatory Authority:** This Order conforms to and implements policies and requirements of the Porter-Cologne Water Quality Control Act (Division 7, commencing with Water Code section 13000) including (1) sections 13267 and 13304; (2) applicable State and federal regulations; (3) all applicable provisions of Statewide Water Quality Control Plans adopted by the State Water Resources Control Board (State Board) and the *Water Quality Control Plan, San Diego Basin* (Basin Plan) adopted by the Regional Board including beneficial uses, water quality objectives, and implementation plans; (4) State Board policies and regulations, including State Board Resolution No. 68-16 (*Statement of Policy with Respect to Maintaining High Quality of Waters in California*), Resolution No. 88-63 (*Sources of Drinking Water*), and Resolution No. 92-49 (*Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under California Water Code Section 13304*); California Code of Regulations (CCR) Title 23, Chapter 16, Article 11; CCR Title 23, section 3890 et. seq.; and (5) relevant standards, criteria, and advisories adopted by other State and federal agencies.

2. **Unauthorized Discharge of Waste:** Petroleum hydrocarbon wastes were discovered in soil and groundwater beneath the Former EZ Serve facility over a period from 1985 to 2001. These petroleum hydrocarbons are not naturally occurring and are waste, as defined in Water Code section 13050, subdivision(d).

A documented release of petroleum from a leak in a product delivery line occurred in March of 1985. In 1992 a gasoline and diesel leak from the USTs was detected from a failed integrity test. In 1997 a marked increase in methyl tertiary butyl ether (MTBE) levels in groundwater was recorded, indicating another release from the USTs. In January 2001, another release of petroleum occurred from the product piping. The three USTs installed in 1983 remained in place until their removal in or around 2003.

3. **Investigative Order No. R9-2007-0105:** The Regional Board issued Investigative Order No. R9-2007-0105 and Addendum No. 1 to Restructure Petroleum Marketing Services of CA, Inc. and Interra Vision (Santee). The Order and Addendum were issued on August 24, 2007, and April 15, 2008, respectively. Since then, additional persons responsible for the discharge of waste at the facility have been identified as discussed in Finding 4. This Cleanup and Abatement Order will supersede and replace Investigative Order No. R9-2007-0105 in order to require additional responsible dischargers to undertake cleanup and abatement actions of the wastes at the site[1], and to increase the prospective civil liability if the Order is violated.

   Investigative Order No. R9-2007-0105 and Addenda required Interim Remedial Action, Site Conceptual Model, Quarterly Groundwater Monitoring, Corrective Action Plan, and Verification Sampling. Investigative Order No. R9-2007-0105 has been partially complied with, however compliance with the Order stopped in 2009.

   Groundwater monitoring results from the *First Quarter 2009 Groundwater Monitoring Report* revealed concentrations of petroleum hydrocarbon wastes in groundwater greater than applicable water quality objectives as shown below:

[1] The "site" refers to the footprint of the entire extent of pollution in soil and groundwater.

Constituent	*Water Quality Objectives (micrograms per liter or µg/L)*	*Maximum Groundwater Concentration (µg/L)*[2]
Benzene	1	9,020
Toluene	150	131
Ethylbenzene	300	1,430
Xylenes	1,750	2,950
MTBE	13	9,140
TBA[a]	12[3]	25,300

a. TBA is tertiary butyl alcohol

4. **Persons Responsible for the Discharge of Wastes:** The persons listed below, hereinafter the Dischargers, are subject to this Order because they either own or owned the property and permitted activities to occur that caused waste to be discharged or deposited where it discharged into waters of the State and created and threatened to create a condition of pollution or nuisance, or operated the gas station and discharged or deposited waste where it discharged into waters of the State and created and threatened to create a condition of pollution or nuisance. The Dischargers, by failing to control the discharge, have caused or permitted waste to be discharged in such a manner that it has created a condition of pollution or nuisance. The term "discharge" includes active, initial release and passive migration of waste.[4]

   a. Mr. Gene Kullmann, Mr. Steve Eide, and Mr. William Essary, in a general partnership identified as Econo Courts, owned the property from 1984 to 2003, except for a period from 1986 to 1990 when Mr. Mike Danaluk was the property owner. At some point Mr. Essary dropped out of the Econo Courts general partnership. Messrs. Kullman, Eide, and Essary, and the

[2] *First Quarter 2009 Quarterly Groundwater Monitoring Report*, prepared by Innovative Environmental Solutions.

[3] **California Notification Level** -- Notification levels are published by the California Department of Health Services (DHS) for chemicals for which there is no drinking water MCL. Notification levels are based mainly on health effects - an incremental cancer risk estimate of 10^{-6} for carcinogens and a threshold toxicity limit for other constituents. When they are purely health-based, notification levels may also be used to interpret narrative water quality objectives that prohibit toxicity to humans that beneficially use the water resource. California Department of Health Services, Division of Drinking Water and Environmental Management, *Drinking Water Notification Levels*, http://www.dhs.ca.gov/ps/ddwem/chemicals/AL/notificationlevels.htm.

[4] *In the Matter of Zoecon Corporation*, Order No. 86-2 (State Board 1986) (the discharge of waste includes the passive migration of waste.) This Order found that the owner of a contaminated site causes or permits a discharge even if the owner did not own the property at the time of the initial release.

general partnership Econo Courts, are dischargers subject to this Order because they owned the property when the releases described in Finding 2 occurred, they failed to cleanup the releases, and they therefore caused or permitted waste to be discharged.

b. Mr. Ghazwan Kalasho bought the property from Messrs. Kullmann and Eide, and owned the property from December 3, 2003, to July 2006.

c. Interra Vision (Santee) bought the property from Mr. Kalasho in July 2006 and is the current property owner.

d. The gas station operated as EZ Serve gas station prior to 1984 until 1990 (hereinafter referred to as the facility). Restructure Petroleum Marketing Services of CA, Inc. (RPMS) is the surviving California Company for EZ Serve as a result of bankruptcy proceedings.

e. After bankruptcy proceedings for EZ Serve, the gas station operated as Towne Center gas station from 1990 until 2001 (hereinafter referred to as the facility).

f. The operators of the former EZ Serve gas station, Mr. Mike Danaluk, Fogerty Petroleum Transportation, Mr. Mike Pridgeon, Mr. Hikmet Romaya, Mr. Raad Hermiz, Mr. Mohammed Shirazifard, Mr. Albert & Mrs. Rebecca Lee, and Mr. Kil & Mr. Curtis Pak, operated the gas station during the time period of the releases. They are not identified in this Cleanup and Abatement Order as persons responsible for the discharge of waste because insufficient information is available to the Regional Board to notify them of this Order. This Order will be amended to hold them responsible for cleanup and abatement at the site when the Regional Board locates one or more of these persons.

5. **Water Quality Standards:** The site is located within the El Cajon Hydrologic Subarea (Basin No. 907.13), of the Lower San Diego Hydrologic Area of the San Diego River watershed. This subarea has designated beneficial uses for both surface waters and groundwaters. Designated beneficial uses of groundwater resources include:

   a. Municipal and domestic supply
   b. Agricultural supply
   c. Potential Industrial service supply
   d. Potential Industrial process supply

   The Basin Plan contains numeric water quality objectives[5] for chemical constituents to protect groundwaters designated for MUN. The numeric

[5] "Water quality objectives" are defined in Water Code section 13050(h) as "the limits or levels water quality constituents or characteristics which are established for the reasonable protection of beneficial uses of water or the prevention of nuisance within a specific area."

objectives are derived from primary maximum contaminant levels (MCLs)[6] established by the Department of Health Services in Title 22 of the CCR.[7] Groundwater concentrations of benzene, toluene, ethylbenzene, xylenes, MTBE, and TBA are not in conformance with the water quality objectives needed to support Municipal and Domestic (MUN) uses of the groundwater, creating a condition of pollution and nuisance in water of the State.

The site is located within the San Diego River watershed. Designated beneficial uses of surface water in the San Diego River watershed include:

a. Potential municipal and domestic supply
b. Industrial service supply
c. Contact water recreation
d. Non-contact water recreation
e. Warm freshwater habitat
f. Cold freshwater habitat
g. Wildlife habitat

Proximity of the discharge to Forrester Creek threatens the potential municipal and domestic supply and the contact water and non-contact water recreation beneficial uses of the creek.

6. **Basis of Cleanup and Abatement Order:** Water Code section 13304 contains the cleanup and abatement authority of the Regional Board. Water Code section 13304 requires a person to clean up waste or abate the effects of the waste discharge if so ordered by a regional board in the event there has been a discharge in violation of waste discharge requirements, or if a person has caused or permitted waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the State and creates or threatens to create a condition of pollution or nuisance. Therefore, based on the previous findings the Regional Board is authorized to order the Dischargers to cleanup and abate the effects of the waste discharge.

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[6] MCLs, maximum contaminant levels, are public health-protective drinking water standards to be met by public water systems. MCLs take into account not only chemicals' health risks but also factors such as their detectability and treatability, as well as the costs of treatment. Primary MCLs can be found in Title 22 CCR sections 64431 - 64444. Secondary MCLS address the taste, odor, or appearance of drinking water, and are found in 22 CCR section 64449.

[7] Basin Plan, footnote 2, supra. Page 3-24 and Table 3-5 at page 3-25. The Basin Plan provides that "Water designated for use as domestic or municipal supply (MUN) shall not contain concentrations of chemical constituents in excess of the maximum contaminant levels specified in CCR Title 22, Table 64444-A of section 64444 (Organic Chemicals) which is incorporated by reference into this plan. This incorporation by reference is prospective including future changes to the incorporated provisions as the changes take effect. (See Table 3-5.)"

7. **Basis for Requiring Reports:** Section 13267(b) of the Water Code provides in part that: "(1) In conducting an investigation specified in [section 13267] subdivision (a), the Regional Board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region...shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports."

8. **Need for Technical and Monitoring Reports:** Technical reports and Monitoring reports are needed to provide information to the Regional Board regarding (a) the nature and extent of the discharge, (b) the nature and extent of pollution conditions in State waters created by the discharge, (c) the threat to public health posed by the discharge, and (d) appropriate cleanup and abatement measures. The reports will enable the Regional Board to determine the vertical and lateral extent of the discharge, ascertain if the condition of pollution poses a threat to human health in the vicinity of the Site, and provide technical information to determine what cleanup and abatement measures are necessary to bring the Site into compliance with applicable water quality standards. Based on the nature and possible consequences of the discharges (as described in Findings No. 2 and 3, above) the Dischargers' burden of providing the required reports bears a reasonable relationship to the need for the reports, the costs, and the benefits to be obtained from the reports.

9. **State Board Policies:** The State Board adopted Resolution No. 92-49, the *Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under Water Code Section 13304.* This Resolution sets forth the policies and procedures to be used during an investigation or cleanup of a discharge of waste and requires that cleanup levels be consistent with State Board Resolution No. 68-16, the *Statement of Policy with Respect to Maintaining High Quality of Waters in California*.

10. **Cleanup Levels:** Resolution No. 92-49 and the Basin Plan establish the cleanup levels to be achieved. Resolution No. 92-49 requires the waste to be cleaned up to background, or if that is not reasonable, to alternative levels that are the most stringent levels that are economically and technologically feasible in accordance with Title 23, CCR section 2550.4. Any alternative cleanup level greater than background must (1) be consistent with the maximum benefit for the people of the state; (2) not unreasonably affect present and anticipated

beneficial use of such water; and (3) not result in water quality less than that prescribed in the Basin Plan and applicable Water Quality Control Plans and Policies of the State Board.

11. **California Environmental Quality Act (CEQA) Compliance:** The issuance of this Order is an enforcement action taken by a regulatory agency and is categorically exempt from the provisions of CEQA pursuant to section 15321(a)(2), Chapter 3, Title 14 of the CCR. This Order requires submittal of detailed work plans that address cleanup activities. The proposed activities under the work plans are not yet known, but implementation of the work plans may result in significant physical impacts to the environment that must be evaluated under CEQA. The appropriate lead agency will address the CEQA requirements prior to implementing any work plan that may have a significant impact on the environment.

12. **Qualified Professionals.** The Dischargers reliance on qualified professionals promotes proper planning, implementation, and long-term cost-effectiveness of investigation, and cleanup and abatement activities. Professionals should be qualified, licensed where applicable, and competent and proficient in the fields pertinent to the required activities. California Business and Professions Code sections 6735, 7835, and 7835.1 require that engineering and geologic evaluations and judgments be performed by or under the direction of registered professionals.

IT IS HEREBY ORDERED that, pursuant to sections 13267 and 13304 of the Water Code, the Dischargers must comply with the following Directives:

A. **CLEANUP AND ABATE DISCHARGES:** The Dischargers shall forthwith take all corrective actions necessary to cleanup and abate the effects of the discharge.

B. **INTERIM REMEDIAL ACTION:** The Dischargers shall immediately implement interim remedial actions to abate or correct the actual or potential effects of the unauthorized release pursuant to CCR Title 23, Chapter 16, section 2722 (b) as necessary. Interim remedial actions may include but are not limited to activities that remove all free phase product (also known as light non-aqueous phase liquid or LNAPL), remove petroleum hydrocarbon sources (e.g. soil saturated with petroleum hydrocarbons) and/or mitigate nuisance of all surface water and groundwater affected by the waste discharge. Interim remedial actions can occur concurrently with any phase of the site investigation or remedial action. On or before **May 31, 2010,** the Dischargers must notify the Regional Board in writing of interim remedial actions by doing the following:

1. **Interim Remedial Actions to mitigate emergency conditions:** The Dischargers shall provide a technical report documenting any work performed to mitigate emergency conditions of pollution or nuisance created by the discharge of petroleum hydrocarbons at the Site. The Dischargers must submit the technical report to the Regional Board within 15-days after completing the work to mitigate emergency conditions under this directive; or

2. **Interim Remedial Actions to mitigate non-emergency conditions:** The Dischargers shall provide a proposed workplan to mitigate non-emergency conditions and schedule of actions at least thirty days prior to initiating any interim remedial actions. The Dischargers must implement its interim remedial actions within 30 days of submitting the workplan to the Regional Board.

C. **SITE ASSESSMENT**

1. **Site Assessment Workplan:** The Dischargers shall develop and submit to the Regional Board by **June 30, 2010**, a workplan adequate to guide the collection of information needed to produce an adequate Site Assessment Report described in Directive C.3.

   a. Human Health Vapor Risk Assessment: The workplan shall include a plan adequate to guide the collection of information needed to perform the Human Health Vapor Risk Assessment described in Directive C.3.i.

b. Activity Completion Schedule: The workplan shall include a schedule for completion of all activities and submission of a final Site Assessment Report described in Directive C.3.

c. Workplan Implementation: The Dischargers shall implement the workplan no later than **60 days** after submission of the workplan and according to the activities completion schedule contained in the workplan, unless otherwise directed in writing by the Regional Board. Before beginning these activities the Dischargers shall:

   i. Notify the Regional Board of the intent to initiate the proposed actions included in the workplan submitted; and
   ii. Comply with any conditions set by the Regional Board, including mitigation of adverse consequences from cleanup activities.

d. Regional Board Notification: The Dischargers shall give the Regional Board notification at least one week before the start of fieldwork.

2. **Site Conceptual Model Report:** On or before **September 30, 2010**, the Dischargers shall submit a Site Conceptual Model (SCM) Report that provides a written or pictorial representation of the release scenario and the likely distribution of waste at the site, offsite, as well as potential pathways and receptors. The SCM must identify and describe the types of wastes present including their distribution in space and time, and how the wastes are changing in space and time. In addition the SCM must identify the potential, current, and future receptors in the area; link potential sources to potential receptors through transport of wastes in the air, soil, and water; and identify the fate and transport characteristics of the site. It should describe or show the physical characteristics and properties of the subsurface and identify the environmental issues that need to be investigated (and those issues that do not need to be addressed) The SCM must include data interpretations, a discussion of the level of uncertainty of conclusions, outline data gaps remaining in the conceptual model, and make recommendations for the next phase of cleanup.

3. **Site Assessment Report:** The Dischargers shall prepare and submit a Site Assessment Report (Report) describing the results of the site investigation. The Report is due no later than 5:00 p.m. on **November 30, 2010**, and shall contain the following information:

   a. Source Characterization: The report shall contain the results of an investigation of all potential sources of waste constituent discharges to soil and groundwater including, but not limited to, historical records of operations, site reconnaissance, and previous sampling studies. The

information in the technical report shall provide an adequate basis for determining subsequent effective cleanup and abatement actions. All sources of waste constituent releases shall be located on a site map at a scale of 1 inch = 200 feet or larger, with an appropriate contour interval to depict site topography.

b. Geologic Characterization: The report shall contain an accurate characterization of the subsurface geology, the hydrogeologic characteristics, and all preferential pathways that may affect groundwater flow and contaminant migration.

c. Groundwater Flow Characterization: The report shall describe the rate(s) and direction(s) of local groundwater flow, in both the horizontal and vertical dimension for all water-bearing units potentially affected by the waste constituent(s) from the site.

d. Extent of Waste Constituent Characterization: The report must adequately characterize the extent (both laterally and vertically) of each waste constituent in soil and groundwater to the background[8] concentration for that waste constituent, and characterize any pollution that has migrated off-property.

e. Groundwater Monitoring Wells: The report shall describe the location of existing monitoring wells, and the proposed location of additional monitoring wells, needed to characterize the types of waste constituents present, the concentrations of waste constituents, and their lateral and vertical extent in groundwater.

f. Field Methodologies: The report shall describe the field methodologies used for drilling, soil sampling, groundwater sampling, well and peizometer construction, geophysical surveys, and other activities. Selected methods for purging and sampling monitoring wells must be capable of providing representative samples of groundwater for detecting all of the waste constituents.

g. Chemical Analyses: The report shall describe the laboratory analytical methods and protocols used for each environmental medium including soil, soil vapor, and water. The suite of chemical analyses, methods and protocols must be adequate to quantitatively identify and characterize the full range of site-specific waste constituents.

[8] "Background" means the concentrations or measures of constituents or indicator parameters in water or soil that have not been affected by waste constituents from the site.

h. Sample Locations and Number: The report shall contain the locations, type, and number of samples identified and shown on a site map and cross sections. The number of samples and suite of chemical analyses must be sufficient to identify the nature of waste constituent(s) and their sources, to define the distribution of waste constituents in the subsurface, to provide data for evaluation of fate and transport of pollutants, risk assessment, remedy selection, and remedial design. In addition, samples shall be collected to evaluate physical properties of soils and aquifer materials. All monitoring data shall be presented in tabular format including the sample result, sample medium, location, depth, sampling method, analyses and rationale for the method.

i. Human Health Vapor Risk Assessment: The report shall contain the results of a human health risk assessment for residents living downgradient of the facility, and risk to children in a school upgradient of the facility. The risks from each chemical and from all applicable exposure pathways shall be summed to obtain the overall screening level risk posed by chemicals detected from the facility. The human health risk assessment shall follow the Department of Toxics Substances Control (DTSC) 2004 Guidance for the Evaluation and Mitigation of Subsurface Vapor Intrusion to Indoor Air.

j. Updated Site Conceptual Model: The report shall contain an update to the original SCM using all data collected at the site. The updated SCM must include data, interpretations, and a discussion of the level of uncertainty of conclusions.

D. CORRECTIVE ACTION PLAN (CAP): The Dischargers shall prepare and submit to the Regional Board by **December 31, 2010**, a CAP that satisfies the provisions of section 2725 of the regulations governing underground storage tanks (CCR, Title 23, Chapter 16 section 2600, et seq.). The CAP must contain all the elements specified in Article 11, section 2725 including:

1. Assessment of Impacts: The CAP shall include an assessment of impacts in accordance with Article 11, section 2725 (e), which includes but is not limited to:

a. The physical and chemical characteristics of the hazardous substance or its constituents, including their toxicity, persistence and potential for migration in water, soil and air.

b. The hydrogeologic characteristics of the site and the surrounding area where the unauthorized release has migrated or may migrate.

c. The proximity and quality of nearby surface water or groundwater, and the current and potential beneficial uses of these waters.

d. The potential effects of residual contamination on nearby surface water and groundwater.

2. **Feasibility Study:** The CAP shall include a feasibility study in accordance with Article 11, section 2725 (f) and (g), to evaluate alternatives for cleanup of soil and groundwater. The evaluation shall include an evaluation of the effectiveness, feasibility, and cost of at least two alternatives to:

a. Restore or protect the beneficial uses identified in Finding 5 to attain the naturally occurring background concentrations for all constituents detected from the release.

b. Restore or protect the beneficial uses identified in Finding 5 to attain the following primary Maximum Contaminant Levels (MCL's) water quality levels:

Constituents	Maximum Contaminant Level (ug/L)
Benzene	1
Toluene	150
Ethylbenzene	300
Total Xylenes	1,750
Methyl Tertiary Butyl Ether	13

The feasibility study shall also include the following elements:

c. An evaluation of methods to control the spread of free product and the dissolved contaminant plume off the property.

d. A comprehensive description of the cleanup and abatement activities associated with each recommended alternative.

e. A proposed time schedule, including interim milestone dates, for completion of each recommended alternative.

3. **Cleanup Levels:** The CAP shall comply with the requirements found in Article 11, section 2721(b), SWRCB Resolution No. 92-49, and Finding 10 of this Order.

a. Groundwater Cleanup Levels: The dischargers shall cleanup and abate the effects of the discharge in a manner that promotes the attainment of either background groundwater quality or the best water quality which is

reasonably attainable if background levels of water quality cannot be restored, considering all demands being made and to be made on those waters and the total values involved, beneficial and detrimental, economic and social, tangible and intangible. Any alternative cleanup levels less stringent than back groundwater quality are subject to Regional Board approval.

b. Soil Cleanup Levels: Residual concentrations of fuel constituents in soils must meet all the following criteria: 1) be low enough so that leachable contaminants will not cause the groundwater cleanup levels to be exceeded at/near the facility; and 2) be protective of human health and the environment. The dischargers shall propose a range of site-specific soil cleanup levels based upon a technical evaluation of risks from residual soil contaminants and analytical results from contaminant leachability tests performed on an adequate number of significantly contaminated soils samples collected from the site.

E. INITIATION OF CAP: Initiate the CAP no later than **60 days** after submission of the CAP to the Regional Board. The CAP shall be implemented according to the schedule in D.2.e.

The Dischargers shall propose a method (s) and schedule for the monitoring and reporting of progress of remediation at the site. These results should be used by the Dischargers to evaluate the effectiveness of the approved corrective action alternative implemented by the Dischargers to remediate the soil and groundwater contamination from the unauthorized release at the site. The results and the technical evaluation must be reported to the Regional Board Executive Officer for review and comment.

Within **60 days** of completing implementation of the CAP, a technical report shall be submitted to the Regional Board with the results verifying implementation of the preferred remedial alternative(s) and evaluating overall remedial effectiveness of the CAP.

F. VERIFICATION MONITORING: Within 60 days of completion of an adequate CAP, the dischargers shall submit a **workplan** to implement a verification monitoring program that includes a schedule for submitting monitoring reports. The Dischargers shall conduct verification monitoring in conformance with the provisions of section 2727 of CCR Title 23, Chapter 16. The Dischargers shall implement the verification monitoring program within 30 days of submitting the workplan to the Regional Board.

G. PENALTY OF PERJURY STATEMENT: All reports must be signed by the Discharger's responsible corporate officer or its duly authorized representative, and must include the following statement by the official, under penalty of perjury, that the report is true and correct to the best of the official's knowledge.

> *"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."*

H. DOCUMENT SUBMITTALS: The Dischargers shall submit both one paper and one electronic, searchable PDF copy of all documents required under this Order to:

Executive Officer
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, California 92123-4353
Attn: Craig Carlisle, Groundwater Basins Branch

All correspondence and documents submitted to the Regional Board shall include the following Geotracker Site ID in the header or subject line:

T0607300542

I. ELECTRONIC DATA SUBMITTALS: The Electronic Reporting Regulations (Chapter 30, Division 3 of Title 23 & and Division 3 of Title 27, CCR) require electronic submission of any report or data required by a regulatory agency from a cleanup site after July 1, 2005. All information submitted to the Regional Board in compliance with this Order is required to be submitted electronically via the Internet into the Geotracker database http://geotracker.waterboards.ca.gov/ (Geotracker Site ID. **T0607300542**). The electronic data shall be uploaded on or prior to the regulatory due dates set forth in the Order or addenda thereto. To comply with these requirements, the Discharger shall upload to the Geotracker database the following minimum information.

1. **Laboratory Analytical Data:** Analytical data (including geochemical data) for all soil, vapor, and water samples in Electronic Data File (EDF) format. Water, soil, and vapor data include analytical results of samples collected from:

monitoring wells, boreholes, gas and vapor wells or other collection devices, surface water, groundwater, piezometers, stockpiles, and drinking water wells.

2. **Locational Data:** The latitude and longitude of any permanent monitor well for which data is reported in EDF format, accurate to within 1 meter and referenced to a minimum of two reference points from the California Spatial Reference System (CSRS-H), if available.

3. **Monitoring Well Elevation Data:** The surveyed elevation relative to a geodetic datum of any permanent monitor well. Elevation measurements to the top of groundwater well casings for all groundwater monitoring wells.

4. **Depth-to-Water Data:** Monitoring wells need to have the depth-to-water information reported whenever water data is collected, even if water samples are not actually collected during the sampling event.

5. **Monitoring Well Screen Intervals:** The depth to the top of the screened interval and the length of screened interval for any permanent monitor well.

6. **Site Map:** Site map or maps which display discharge locations,[9] streets bordering the facility, and sampling locations for all soil, water, and vapor samples. The site map is a stand-alone document that may be submitted in various electronic formats.[10] A site map must also be uploaded to show the maximum extent of any groundwater pollution. An updated site map may be submitted at any time.

7. **Boring logs:** Boring logs (in searchable PDF format) prepared by an appropriately licensed professional.

8. **Electronic Report:** A complete copy (in searchable PDF format) of all workplans, assessment, cleanup, and monitoring reports including the signed transmittal letters, professional certifications, and all data presented in the reports.

J. VIOLATION REPORTS: If the Discharger violates any requirement of this Order, then the Discharger must notify the Regional Board office by telephone as soon as practicable once the Discharger has knowledge of the violation. Regional Board staff may, depending on violation severity, require the Discharger to submit a

[9] Former tank(s), product and vapor piping, dispenser locations, or sump locations, and unauthorized discharge or spill areas.

[10] Formats include .gif, .jpeg, .jpg, tiff, .tif, .pdf

separate technical report on the violation within five working days of telephone notification.

K. **OTHER REPORTS:** The Discharger must notify the Regional Board in writing prior to any site activities, such as construction or removal of an underground tank, which have the potential to cause further migration of contaminants or which would provide new opportunities for Site investigation.

PROVISIONS

A. **NO POLLUTION, CONTAMINATION OR NUISANCE:** The storage, handling, treatment, or disposal of soil containing petroleum hydrocarbon waste or polluted groundwater must not create conditions of nuisance as defined in Water Code section 13050(m). The Dischargers must properly manage, treat and dispose of wastes and polluted groundwater in accordance with applicable federal, state and local regulations.

B. **GOOD OPERATION AND MAINTENANCE:** The Dischargers must maintain in good working order and operate as efficiently as possible any monitoring system, Site or control system installed to achieve compliance with the requirements of this Order.

C. **GROUNDWATER MONITORING PROGRAM:** The Dischargers must comply with the Groundwater Monitoring Program attached to this Order.

D. **CONTRACTOR/CONSULTANT QUALIFICATIONS:** All reports, plans and documents required under this Order shall be prepared under the direction of appropriately qualified professionals. A statement of qualifications and license numbers, if applicable, of the responsible lead professional and all professionals making significant and/or substantive contributions shall be included in the report submitted by the Dischargers. The lead professional performing engineering and geologic evaluations and judgments shall sign and affix their professional geologist or civil engineering registration stamp to all technical reports, plans or documents submitted the Regional Board.

E. **LABORATORY QUALIFICATIONS:** All samples must be analyzed by California State-certified laboratories using methods approved by the U.S. Environmental Protection Agency (USEPA) for the type of analysis to be performed. All laboratories must maintain quality assurance/quality control (QA/QC) records for Regional Board review.

F. **LABORATORY ANALYTICAL REPORTS:** Any report presenting new analytical data is required to include the complete Laboratory Analytical Report(s). The Laboratory Analytical Report(s) must be signed by the laboratory director and contain:

1. a complete sample analytical report,

2. a complete laboratory quality assurance/quality control (QA/QC) report,

3. a discussion of the sample and QA/QC data, and

4. a transmittal letter that shall indicate whether or not all the analytical work was supervised by the director of the laboratory, and contain the following statement, "All analyses were conducted at a laboratory certified for such analyses by the California Department of Health Services in accordance with current USEPA procedures."

G. **REPORTING OF CHANGED OWNER OR OPERATOR:** The Dischargers must notify the Regional Board of any changes in Site occupancy or ownership associated with the property described in this Order.

H. **REGULATIONS:** All corrective actions must be in accordance with the provisions of CCR Title 23, Chapter 16, and the Cleanup and Abatement Policy in the Water Quality Control Plan for the San Diego Basin (9).

NOTIFICATIONS

A. **COST RECOVERY:** Pursuant to Water Code section 13304(c), the Regional Board is entitled to, and may seek reimbursement for all reasonable costs actually incurred by the Regional Board to investigate unauthorized discharges of waste and to oversee cleanup of such waste, abatement of the effects thereof, or other remedial action, required by the Order.

B. **ALL APPLICABLE PERMITS:** This Order does not relieve the dischargers of the responsibility of obtaining permits or other entitlements to perform necessary corrective action. This includes, but is not limited to, actions that are subject to local, state, and/or federal discretionary review and permitting.

C. **PRIOR ORDER SUPERSEDED:** Investigative Order No. R9-2007-0105 is superseded and replaced with this Cleanup and Abatement Order.

D. **ENFORCEMENT NOTIFICATION:** Failure to comply with requirements of this Order may subject you to enforcement action, including but not limited to: imposition

of administrative civil liability, pursuant to Water Code sections 13268 and 13350, in an amount not to exceed $5,000 for each day in which the violation occurs under Water Code sections 13304 or 13350 or referral to the Attorney General to injunctive relief or civil or criminal liability.

E. REQUESTING EVIDENTIARY HEARING BY THE REGIONAL BOARD: Any person affected by this action of the Regional Board may request an evidentiary hearing before the Regional Board. The Regional Board's Executive Officer may elect to hold an informal hearing or a "paper hearing" in lieu of scheduling a hearing before the Regional Board itself. If either of the Responsible Parties decides to request an evidentiary hearing, they must send their request to the Regional Board Executive Officer, Attn: Supervisor Central San Diego County Groundwater Unit, at the address provided on the Order transmittal letter. Please consider the following carefully:

1. The Regional Board must receive the request within 30 days of the date of this Order.

2. The request must include all comments, technical analysis, documents, reports, and other evidence that the Responsible Party wishes to submit for the evidentiary hearing. However, please note that the administrative record will include all materials the Regional Board has previously received regarding this facility. The Responsible Party is not required to submit documents that are already in the record.

3. The Executive Officer or Regional Board may deny the request for a hearing after reviewing the evidence.

4. If neither of the Responsible Parties requests an evidentiary hearing, the State Board may prevent them from submitting new evidence in support of a State Board petition.

5. The request for an evidentiary hearing, if one or both of the Responsible Parties submits one, does not stay the effective date of the Order, whether or not a hearing is scheduled.

6. A request for a hearing does not extend the 30-day period to file a petition with the State Board (see below). However, we suggest that the either or both of the Responsible Parties asks the State Board to hold the petition in abeyance while the request for a hearing is pending. (Refer to CCR Title 23 section 2050.5(d)) Additional information regarding the SWRCB petition process is provided below.

F. REQUESTING ADMINISTRATIVE REVIEW BY THE STATE BOARD: Any person affected by this action of the Regional Board may petition the State Board to review the action in accordance with section 13320 of the Water Code and CCR Title 23 section 2050. The petition must be received by the SWRCB (Office of Chief Counsel, P.O. Box 100, Sacramento, California 95812) within **30 calendar days** of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request.

James 6. Smith, ASO
for David W. Gibson
Executive Officer

11 Feb 10
February 11, 2010

Enclosure 1: Groundwater Monitoring Program

Summary of Required Submittals and Their Due Dates

Directive	Activity	Due Date
B	Interim Remedial Action Response	May 31, 2010
C.1	Site Assessment Workplan	June 30, 2010
C.2	Site Conceptual Model	September 30, 2010
C.3	Site Assessment Report	November 30, 2010
D	Corrective Action Plan	December 31, 2010

ATTACHMENT 1 – Timeline of Facility Ownership and Operation

Date	Property Owner	Gas Station:	Gas Station Operator/Lessee
November 19, 1974	Investical	James White Oil Co.	James White Oil Co.
		EZ Serve bought James White Oil Co.	EZ Serve
November 16, 1984	General Partnership Econo Courts Bought Property from Investical. Econo Courts General Partnership is Steve Eide, Gene Kullman, & William Essary	EZ Serve	Mike Danaluk – sublease of EZ Serve
1984-1986	Property transferred from Econo Courts to Gene and Margarita Kullmann and Steve and Gloria Eide (tenants in common)	EZ Serve	Mike Danaluk – sublease of EZ Serve
December 5, 1986	Kullmann/Eide sold property to Mike and Marguerite Danaluk	EZ Serve	Mike Danaluk – sublease of EZ Serve
1990	Danaluk defaulted and filed bankruptcy	EZ Serve	
March 22, 1990	Kullmann/Eide regain title	EZ Serve*	
June 1, 1990 – March 1991	Kullmann/Eide	Towne Center Gas	Steve Eide & Gayle Rundle Partnership
March 11, 1991 – September 1991	Kullmann/Eide	Towne Center Gas	Fogerty Petroleum Transportation
Late 1991	Kullmann/Eide	Towne Center Gas	Mike Pridgeon
January 1, 1992	Kullmann/Eide	Towne Center Gas	Hikmet Romaya
May 12, 1992 – early 1997	Kullmann/Eide	Towne Center Gas	Raad Hermiz & Mohammed Shirazifard
Feb. 17, 1997	Kullmann/Eide	Towne Center Gas	Albert & Rebecca Lee
November 16, 1999	Kullmann/Eide	Towne Center Gas	Kil & Curtis Pak
December 1999**	Kullmann bought portion of Eide's interest	Towne Center Gas	Kil & Curtis Pak
December 3, 2003	Kullmann/Eide sold property to Ghazwan Kalasho		
July 2006	Ghazwan Kalasho sold property to Interra Vision (Santee)		

*EZ Serve filed for bankruptcy and the surviving CA company from that bankruptcy is Restructure Petroleum Marketing Services of CA, Inc.

**Product piping leak was discovered February 2001 while under operation by Kil & Curtis Pak. The station was not operated after the leak was discovered, and the USTs were removed in August 2002 by Restructure Petroleum Marketing Services of CA, Inc.

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

FINAL CLEANUP AND ABATEMENT ORDER R9-2010-0026
GROUNDWATER MONITORING PROGRAM

THE FORMER EZ SERVE GAS STATION,
9305 MISSION GORGE ROAD,
SANTEE, CALIFORNIA

1. **Authority and Purpose**: The Discharger is directed to submit the technical reports required in this Groundwater Monitoring Program (GMP) pursuant to Water Code sections 13267 and 13304. The purpose of the GMP is to document achievement of cleanup levels, and to provide data to answer the following questions.

   a. Are interim remedial actions effective?
   b. Has the lateral and vertical extent of each waste constituent in soil, groundwater, and soil vapor been delineated?
   c. Is the size of the plume of each waste constituent decreasing in size and/or mass?
   d. Has the source of each waste constituent been effectively cleaned up?
   e. Is the selected remedial action alternative effectively removing waste constituents from the soil, groundwater, and soil vapor, and is the alternative capable of achieving the cleanup levels in the CAP?
   f. Have the beneficial uses of the groundwater been restored, and are human health and the environment protected?

2. **Monitoring:** The Discharger must measure groundwater elevations semiannually in all monitor wells. Groundwater samples collected from all current groundwater monitor wells shall be collected and analyzed on a semiannual basis using EPA methods 8015 for total petroleum hydrocarbons quantifying gasoline and diesel and EPA method 8260b for the **full scan of volatile organic compounds** including benzene, toluene, ethylbenzene, xylenes, methyl tertiary butyl ether (MTBE), tertiary butyl alcohol (TBA) and all other fuel oxygenates.

   The Discharger must sample any new groundwater monitor or extraction wells semiannually and analyze groundwater samples for fuel related constituents and all volatile organic compounds. The Discharger may provide a written proposal to change the sampling requirements in this Order. Any proposed changes are subject to Regional Board approval.

3. **Groundwater Monitoring Reports:** The Discharger must submit groundwater monitoring reports according to the following schedule:

   Quarterly Monitoring: Monitoring wells MW-11, MW-12, MW-27, and MW-31 shall be monitored on a quarterly basis. MW-27 is not listed as properly destroyed, so the

discharger must locate and properly maintain MW-27 or provide evidence to the Regional Board that MW-27 has been properly destroyed. The quarterly groundwater monitoring reports to the Regional Board shall commence with the first calendar quarter, due **April 30, 2010**. Subsequent reports shall be submitted no later than 30 days following the end of the monitoring period according to the following schedule:

Monitoring Period	Due Date for Report
First Quarter (Jan-Mar)	Due no later than April 30
Second Quarter (Apr-Jun)	Due no later than July 30
Third Quarter (July-Sept)	Due no later than Oct 30
Fourth Quarter (Oct-Dec)	Due no later than January 30

The Regional Board will consider changing the groundwater monitoring requirements based on data submitted, delineation of the groundwater plume, remediation methods, rebound effect, and numerous other conditions that can arise during mitigation and remediation of the groundwater pollution. Any changes in the monitoring frequency will require an Addendum to the CAO.

Semiannual Monitoring: All remaining monitoring wells, including those recorded as inaccessible or not located due to site development, shall be monitored on a semiannual basis, with the groundwater monitoring report to the Regional Board due no later than **July 30, 2010**. Subsequent reports shall be submitted no later than 30 days following the end of the monitoring period according to the following schedule:

Monitoring Period	Due Date for Report
Second Quarter (Apr-Jun)	Due no later than July 30
Fourth Quarter (Oct-Dec)	Due no later than January 30

The groundwater monitoring reports must include:

a. **Transmittal Letter with Penalty of Perjury Statement.** The transmittal letter must discuss any violations during the reporting period and actions taken or planned to correct the problem. The letter must be signed by the Discharger's principal executive officer or their duly authorized representative, and must include a statement by the official, under penalty of perjury, that the report is true and correct to the best of the official's knowledge.

b. **Groundwater Elevations.** Groundwater elevation data must be presented in tabular format with: depth to groundwater (in feet below ground surface), top of casing elevations, depths to the top of well screens, length of well screens and total depth for each well included in the monitoring program. For all wells containing floating "free petroleum product" (also know as light non-aqueous phase liquid or LNAPL) include the measured thickness of LNAPL in a tabular

format. A groundwater elevation map must be prepared for each monitored water-bearing zone with the groundwater flow direction and calculated hydrologic gradients(s) clearly indicated in the figures(s). A complete tabulation of historical groundwater elevations must be included in the second semiannual report each year.

c. **Reporting Groundwater Results**: All monitoring reports must:

i. Present all groundwater sampling data in tabular format. Isoconcentration map(s) must be prepared for constituents of concern (COCs) for each monitored water-bearing zone, as appropriate. Time versus concentration plots and distance versus concentration plots that also show groundwater elevations must be prepared for constituents of concern for appropriate wells.

ii. Provide a Site plot plan which clearly illustrates the locations of monitor wells, former/current underground storage tank systems (and product piping) and buildings located on the property and immediately adjacent to the property lines of the facility.

iii. Provide a S ite plot plan with the most recent concentrations of total petroleum hydrocarbons and volatile aromatic hydrocarbons (*e.g.* benzene, toluene, ethylbenzene, total xylenes, MTBE, TBA and other fuel oxygenates).

iv. The report must provide technical interpretations of the groundwater data, and describe any significant increases in pollutant concentrations since the last report, any measures proposed to address the increases, any changes to the site conceptual model, any conclusions and recommendations for future action with each report.

v. The report must describe analytical methods used, detection limits obtained for each reported constituent, and a summary of QA/QC data.

vi. The report must indicate sample collection protocol(s), describe how investigation derived wastes are managed at the facility, and include documentation of proper disposal of contaminated well purge water and/or soil cuttings removed from the facility.

vii. Historical groundwater sampling results must be listed in tabular form and included in the second semiannual report each year.

d. **Remediation:** If applicable, the report must include soil vapor or groundwater extraction results in tabular form, for each extraction well and for the Site as a whole. The report must also include contaminant removal results, from all extraction wells and from other cleanup and abatement systems (*e.g.* skimmers),

expressed in units of chemical mass per day and mass for the reporting period. Historical total annual mass removal results must be tabulated in the second semiannual report each year.

e. **Status Report:** The semiannual report must describe relevant work completed during the reporting period (*e.g.* Site investigation, interim remedial measures) and work planned for the following monitoring period.

4. **Record Keeping:** The Discharger or their agent must retain data generated for the above reports, including lab results and QA/QC data, for a minimum of six years after origination and must make them available to the Regional Board upon request.

5. **Groundwater Monitoring Program (GMP) Revisions:** Revisions to the GMP may be ordered by the Regional Board, or at the request of the Discharger. Prior to making GMP revisions, the Regional Board will consider the burden, including costs, of the groundwater monitoring reports relative to the benefits to be obtained from these reports.

James G. Smith, AEO
for DAVID W. GIBSON
Executive Officer

11 Feb 10
February 11, 2010